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Disclosure and Barring Service

Whistleblowing procedure: Raising a concern

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1. Introduction
   1. This procedure outlines the process to be followed when reporting a perceived wrongdoing within the Disclosure and Barring Service (DBS), including a breach of the organisation’s core values. It is designed to encourage an open culture where we all feel confident that concerns can be raised and dealt with quickly, without fear of reprisal or victimisation.
   2. The reporting of wrongdoing under this procedure may be covered by the law concerning protected disclosures of information. The procedure has therefore been written with reference to the Public Interest Disclosure Act 1998 (PIDA), which offers protection to those who make disclosures about certain matters of concern (where those disclosures are made in accordance with the provisions of the act) from dismissal or a detriment short of dismissal.
   3. It is important that this procedure is followed when raising any concerns, to ensure that the matter is dealt with correctly. Where a concern is properly raised under this procedure, the individual will be protected from any unfair or negative treatment. PIDA protection may also apply.
   4. The procedure is in place to reassure us all that it is safe and acceptable to speak up and enable concerns to be raised at an early stage and in the right way. Rather than wait for ‘proof’, DBS would encourage colleagues to raise the matter when it is still a concern rather than wait for an incident to happen.
   5. Details of roles and responsibilities can be found in annex 1.
2. Principles
   1. The following principles underpin this procedure:

* everyone should be encouraged and feel confident to raise concerns they may have about wrongdoing as soon as they notice it and without delay
* when raising a concern that is accepted under this procedure protection will be afforded
* all concerns will be handled responsibly, professionally and in a positive manner
* help and support is available to those who raise concerns

1. Scope
   1. This procedure applies to:

* permanent, fixed term, and casual employees
* DBS Board members
* external consultants, contractors, and agency employees
* staff seconded, or on loan, to or from DBS

1. What is whistleblowing
   1. Whistleblowing is formally defined as ‘making a disclosure in the public interest’. More generally, it is understood to mean the ‘protected disclosure’ by an individual of wrongdoing in an organisation.
   2. The PIDA provides statutory protection to you if you make a qualifying disclosure. The individual making this disclosure must have reasonable belief that the disclosure is in the public interest and that it tends to show one or more of the following has occurred, is occurring or is likely to occur:

* a criminal offence
* breach of a legal obligation
* a miscarriage of justice
* a threat to the health and safety of any individual
* damage to the environment
* deliberate concealment of information relating to any of the above
  1. In certain circumstances disclosures can be made to certain regulatory bodies known as ‘prescribed persons’. To be protected, however, an employee will need to follow the procedure set out in the Employment Rights Act 1996 (ERA). It would, therefore, be advisable to seek legal advice and refer to the [whistleblowing guidance relating to prescribed people and bodies](https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2) before raising a concern this way.

1. What should be reported
   1. DBS promotes a compliance culture in which everyone can internally report failure to meet expected standards and would encourage anybody who has a concern in the workplace to raise it straight away. This procedure, therefore, encourages disclosures relating to any serious concerns about service provision or the conduct of staff that:

* make you feel uncomfortable in terms of known standards
* are not in keeping with DBS policies and procedures
* fall below established standards of practice
* relate to improper behavior

This might include but is not restricted to:

* conduct which is an offence or a breach of the law (a criminal offence has been committed or failure to comply with any other legal obligation)
* the health and safety of the public and/or other colleagues
* damage to the environment
* unauthorised use of public funds or other assets
* other unethical conduct
  1. Nobody should act in bad faith or raise malicious, vexatious, or knowingly untrue concerns. Those who raise concerns with a reasonable belief that raising the concern is in the public interest, will be given protection under this procedure.

1. Concerns not covered by the whistleblowing procedure
   1. Concerns raised which are personal in nature should be dealt with using other relevant procedures such as grievance, discrimination or bullying and harassment procedures.
   2. Concerns regarding corruption and fraud or acts of bribery should be raised and handled in line with the following:

* DBS discipline procedure
* DBS grievance procedure
* DBS fraud and corruption procedure
* DBS bribery procedure
* Bribery Act 2010
* DBS code of conduct
  1. If you are unsure whether a concern should be raised using the whistleblowing procedure, it is important that this does not delay raising the concern immediately. It could be that your concern may relate to a different procedure, such as Grievance or Bullying and Harassment. In which case, you will be advised of this and supported in raising your concern under the correct procedure.
  2. If raising a concern anonymously via DBS Confidential (Section 10), the trained adviser will advise you if the concern does not fall under the categories in the whistleblowing legislation and ask if you wish to continue. If you do, the concern is raised to DBS.
  3. Line managers, the DBS nominated officer, or a trade union representative will also be able to assist.
  4. The nominated officer for DBS is the Director of Human Resources & Organisational Development. Further details of roles and responsibilities can be found in annex 1.

1. How to raise a concern
   1. If anybody experiences something in the workplace which they consider to be in conflict with the organisation’s core values, and/or otherwise perceived to be wrongdoing, it is important that the concern is raised straight away. ‘Proof’ or a statement of evidence is not required as this is the organisation’s responsibility. The person must, however, have a reasonable belief that disclosing the information is in the public interest.
   2. Where your concern relates to a different procedure you will be advised and directed to the most relevant one. You can also seek advice from a trade union representative.
   3. The concern should, in most instances, be raised with your line manager, either verbally or in writing. If it is appropriate to deal with your concern, the manager will complete the line manager assessment form, found at annex 4, and refer immediately to the nominated officer.
   4. There may, however, be certain occasions when individuals may be reluctant to raise a concern with their line manager, depending on the seriousness and sensitivity of the issues involved and who is suspected of any potential wrongdoing. In these instances, the concern should be raised with a senior manager or, if the individual is unable to do so, directly with the nominated officer.
   5. The nominated officer will refer any concerns relating to the Chief Executive Officer to the DBS Board Chairman. If the concern relates to the nominated officer, Chief Executive Officer, or any other member of the Strategic Leadership Team (SLT), the concern should be raised with the Chair of the Audit Risk Committee (ARC) who will be the point of contact. Details are provided in annex 1.
   6. If confident that the concern is extremely serious and urgent and it cannot be raised with the line manager, another manager, senior manager, or a nominated officer, then it can be raised with the DBS Board Chairman or Chief Executive Officer. The concern should only be raised in this way if the individual has given serious consideration to all other internal options. The individual may be asked to explain why they did not raise the concern with their manager or a nominated officer.
   7. If unable to raise the concern with the Chief Executive Officer, it may be necessary to raise a concern with the Permanent Secretary of the Home Office. The nominated officer will be able to advise on this.

1. What information should be included
   1. When raising a concern, the person should try to provide the following information:

* the background and reason behind the concern
* whether they have already raised the concern with anyone and the response
* any relevant dates
  1. This information should demonstrate that there are reasonable grounds for the concern to be acted upon. It is important that matters are not investigated by individuals themselves. Proof is not needed, just a reasonable, honest belief that wrongdoing has occurred or is likely to occur. If applicable, personal interests should be stated from the outset.

1. Confidentiality
   1. Any disclosures made under this procedure will be treated in a sensitive manner, however, the organisation recognises that a person may want to raise a concern in confidence i.e., they may want to raise a concern on the basis that their name it is not revealed without their consent.
   2. DBS will respect any request for confidentiality as far as possible, restricting it to a ‘need to know’ basis. If a situation arises, however, where it is not possible to resolve the concern without revealing the person’s identity (for example, in matters of criminal law), then they will be advised before proceeding. The same degree of confidentiality should be afforded to the person(s) at the centre of the concern, as far as appropriate.
2. How can I raise a concern anonymously?
   1. The best way to raise a concern is to do so openly as this makes it easier for DBS to investigate and provide feedback. However, you may choose to raise concerns through internal channels anonymously, for example without providing your name at all. Concerns expressed anonymously will be considered at the discretion of DBS. In exercising this discretion, the following factors will be considered:

* the seriousness of the concern or concerns raised
* the credibility of the concern
* the likelihood of confirming the allegation via alternative sources
  1. DBS also recognises that there may be situations where you do not feel comfortable raising a concern directly with management. Therefore, DBS Confidential provides a route to raise a concern anonymously, through an external organisation.
  2. DBS Confidential is a 24/7 free and confidential telephone service managed by our Employee Assistance Provider (EAP) - 0800 047 4037.
  3. Trained advisors will take necessary details and pass the disclosure, anonymously, as a high priority to the DBS nominated officer to take forward internally in line with this procedure. The process is detailed in Annex 2.
  4. Where a concern does not fall under whistleblowing legislation, you will be advised of this and asked if you wish to continue. If you do, the concern will be passed to the DBS nominated officer. Should the concern relate to the nominated officer, the concern will instead be directed to the Chair of the Audit and Risk Committee.
  5. DBS Confidential provides in-the-moment counselling as part of the service as it is recognised disclosures can often be distressing.

1. External disclosures
   1. It is important that concerns are raised internally, or via DBS Confidential, at the earliest time possible. This will allow DBS the opportunity to address and resolve any concerns quickly and by the most appropriate means. DBS is confident that there are sufficient internal avenues available to deal with any concerns raised.
   2. Raising a concern outside the prescribed routes listed in this procedure, for example, with the media, campaign groups, on social media or with political parties, is protected by the PIDA only in very limited circumstances and could, if it amounts to an unauthorised disclosure, result in disciplinary action. It may also breach the Official Secrets Act. Please refer to the policies on contact with the media and use of social media for further guidance. Please note this list is not exhaustive.
2. How the concern will be handled
   1. Once somebody has reported their concern it will be assessed, and consideration will be given to what action may be appropriate. This may involve an informal review, internal inquiry, or a more formal investigation.
   2. If raised directly with management or the DBS nominated officer, you will be advised who will be handling your concern, how you can contact them, and what information you may need to provide. If a concern has been raised via DBS Confidential, we would be unable to provide you with this information. A summary of the process is provided in annex 2.
   3. All investigations will be conducted sensitively and as quickly as possible. While the organisation cannot guarantee that the outcome will be as the person may wish, it will handle the matter fairly and in accordance with the procedure.
   4. The nominated officer will refer the concern to the appropriate head of service or member of SLT. They will make an initial assessment to decide on the best way to take the matter forward. The duration of the investigation will depend on the scope, complexity, and type of investigation required.
   5. Depending on the nature of the concerns, an investigation will be progressed:

* via an internal enquiry
* through disciplinary procedures
* via an external enquiry
* via a police investigation
  1. The head of service or SLT member will also appoint an experienced and appropriate person who will investigate the concern and take it forward. This person is known as the investigating officer, and they will arrange a meeting with the person who raised the concern as soon as possible.
  2. Ideally, this meeting should be arranged within 3 working days of the concern being raised, although circumstances may dictate a shorter or longer timescale. It is, however, the expectation that the meeting should have taken place no later than 5 working days following the concern being raised.
  3. If a meeting is arranged, you may wish to be accompanied by a trade union representative or a workplace colleague who is not involved in the area of work to which the concern relates. The meeting can be conducted over the telephone or via Microsoft Teams, rather than face-to-face.
  4. Arrangements on how the investigating officer will update you on progress will also be discussed and agreed at this meeting, however, these arrangements may change as the investigation progresses.
  5. The investigating officer may decide the concern is so serious that it requires investigation by the police and will arrange for appropriate steps to be taken in consultation with the head of service or SLT member.
  6. After making all the necessary enquiries, the investigating officer should produce an outcome report, including findings, conclusions, and recommendations. This should be shared with the appropriate head of service or SLT member, and appropriate action taken.

1. Outcome
   1. There are two possible outcomes:

* a case to answer
* no case to answer
  1. Where there is a case to answer, action will be taken in line with the disciplinary procedure, or most relevant process.
  2. Where there is no case to answer, but the individual had a genuine concern and was not acting maliciously, DBS will ensure the person does not suffer a detriment.
  3. However, if there is evidence that the allegation was made maliciously or for personal gain, disciplinary action may be taken against the individual who raised the concern.
  4. The person raising the concern will be notified when the matter is concluded and, if appropriate, will be informed of the outcome of the investigation maintaining security and confidentiality for all parties as far as possible.

1. Protection
   1. If a concern is raised in the public interest and the procedure is followed correctly, the person will be protected from victimisation or dismissal. Where somebody has been victimised for raising a concern, DBS will take appropriate action against those responsible, in line with our disciplinary policy or the most relevant process.
2. Former staff
   1. A former staff member of DBS may also raise a concern under this procedure and will benefit from the same protection as current staff members.
   2. They should report the concern, either, in writing to the nominated officer [Rachel.welch@dbs.gov.uk](mailto:Rachel.welch@dbs.gov.uk) (or an individual listed in paragraphs 7.5 to 7.7) where appropriate, or by phoning DBS Confidential as described in section 10.
   3. Disclosures from former staff should be raised as early as practically possible, with as much detail as possible (see section 8).
   4. The concern will be handled, and the former staff member updated (if contact details have been provided) as outlined in section 12.
   5. The former staff member will be advised that the matter has concluded and, if appropriate, the outcome of the investigation, maintaining security and confidentiality for all parties as far as possible.
3. Monitoring and compliance
   1. The Director of HR & OD is responsible for collating the details of any cases which are dealt with under this procedure and will provide a report to SLT which will outline the nature of the concerns raised, including outcomes. The information presented will protect the confidentiality of the parties involved.
   2. ARC will be informed of the number of instances as part of the assurance report.
4. Support
   1. DBS appreciates that when considering making a whistleblowing disclosure, anybody may be unsure or feel uncertain as to what to do next. In addition to managers and the nominated officer, there are various other channels of support available throughout the process:

* the Employee Assistance Programme provided by DBS
* DBS confidential provides in-the-moment counselling as part of the speak up service as it is recognised disclosures can often be distressing
* the ACAS Helpline 0300 123 1100 provides free and impartial advice on a range of issues, including whistleblowing in the workplace
* Public Concern at Work (PCAW), an independent whistleblowing charity which advises individuals on whistleblowing matters at work - they provide free, confidential advice on 0207 404 6609 or via [www.pcaw.org.uk](http://www.pcaw.org.uk)
* trade union members can also seek advice from their representatives

Annex 1: Roles and responsibilities

The Chief Executive:

The chief executive’s role is to ensure all concerns raised are dealt with fairly, thoroughly, and in accordance with this procedure.

All Colleagues:

All colleagues, irrespective of grade or position within the organisation, have a responsibility to raise concerns providing they have a reasonable belief that wrongdoing has occurred.

Managers:

All managers are responsible for ensuring that staff are aware of the whistleblowing procedure and its application, and for creating an environment in which staff are able to express concerns freely and without fear of reprisal.

The Nominated Officer, or Director of HR & OD:

This role includes responsibility for:

* referring concerns to the appropriate SLT member or head of service
* reviewing the whistleblowing procedure
* reporting whistleblowing concerns and outcomes to the board

SLT Member or Head of Service:

The SLT member or head of service is responsible for making an initial assessment to decide on the best way forward and for appointing an investigating officer to pursue the matter.

Investigating Officer:

The investigating officer is responsible for investigating the concern and establishing an outcome, i.e. case to answer or no case to answer. The investigating officer will also maintain contact with the individual who raised the concern to provide updates on the case.

Chair of ARC:

The chair of ARC’s role is to act on whistleblowing concerns regarding the chief executive or any other SLT member.

* Chair of ARC – Emir Feisal: [Emir.Feisal@dbs.gov.uk](mailto:Emir.Feisal@dbs.gov.uk)
* Board Secretary – Martin Skeats: [Martin.Skeats@dbs.gov.uk](mailto:Martin.Skeats@dbs.gov.uk)\*

*\*Concerns addressed to the chair of ARC should also be sent to the board secretary*

**Annex 2: Process flowchart**

**Reporting a disclosure externally**

Individual is concerned that something wrong is happening at work

**Reporting a disclosure internally**

Talk to your line manager, a senior manager or the nominated officer and consider how the matter can be resolved.

Complete a referral and send to the DBS nominated officer (Director for HR & OD)

**Note**: Don’t forget that guidance can be obtained from a trade union representative

Individual raises a concern with DBS Confidential, by telephoning 0800 047 4037.

A trained advisor will ask a series of questions, capturing the relevant information. Anonymous disclosures will be sent to the nominated DBS contact.

**Note:** If the disclosure does not fall under whistleblowing legislation, the individual will be asked if they wish to continue. If they do, the details will be passed to the nominated DBS contact

**Stage 2: How it will be handled**

A) A decision will be made on the best way to take the concern forward

B) Investigation will take place

C) Outcome report produced

Note: Don't forget that the EAP is there to provide support

**Stage 3: Outcome**

A) Outcome could be 'no case to answer' or 'case to answer', in which case the disciplinary procedure will be followed

Note: Don't forget that regardless of the outcome, staff will not be penalised if they have raised the concern in good faith

**Monitoring and compliance**

Monitoring and compliance is in place to ensure that the process works, colleagues are protected and that lessons can be learnt where appropriate.

**Annex 3: Line manager assessment form**

|  |  |  |
| --- | --- | --- |
| Manager’s name: |  | |
| Job title: |  | |
| Work location: |  | |
| Meeting date: |  | |
| **Checklist** | | |
| Does the concern fall under the whistleblowing procedure? | |  |
| Where the concern does not fall under the whistleblowing procedure, has the individual been directed to the relevant departmental policy or procedure? | |  |
| Has reassurance been given that individual will not be penalised for raising the concern? | |  |
| Does the individual wish to remain anonymous? | |  |
| If yes, has the individual been advised that DBS will generally not disclose their identity without their consent but that there may be circumstances where DBS is unable to protect their identity as this could make it difficult to fully investigate the matter? | |  |
| **Record of fact finding** | | |
| 1. Outline of concern  2. Facts discussed  3. Individuals/units suspected of involvement  4. Supporting evidence, if available | | |
| Has assurance been given that you are available should the individual have any queries or would like to discuss any aspects of their concern? | |  |
| Has the individual been reminded that support is available via the Employee Assistance Programme? | |  |
| **Concern referred for formal investigation** | | |
| Name of investigator: |  | |
| Signature of investigator: |  | |
| Date: |  | |
| Has the individual been provided with written confirmation of the conclusion of the investigation? | |  |

**Summary of main changes**

|  |  |  |
| --- | --- | --- |
| **Date:** | **Section/paragraph/page:** | **Summary of changes:** |
| Sep 22 | 8.5, 9.3 and 15.1 (second bullet point) | Additional content included to reflect the introduction of DBS Confidential. |
| Sept 22 | Annex 2 | Additional process map included to reflect the introduction of DBS Confidential |
| Oct 22 | Throughout | Cosmetic updates to style and updates to reflect the style guide. |
| Nov 22 | Throughout | Changes to the order / flow of procedure. |
| Aug 23 | Section 15 | New section included to cover former members of staff |
| Aug 23 | Annex 1 | Updated Chair of ARC name and email address |